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Supreme Court, U.S.
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No. 03-256

In The
Supreme Court of the United States

BILLIE B. LINE, JR.,

Petitioner,

v.

PAMELA ALONSO,

Respondent.

On Petition For A Writ Of Certiorari To The Supreme Court Of Louisiana

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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STATEMENT OF THE CASE

On January 14, 1998, respondent, Pamela Alonso, was rear-ended at an intersection in Baton Rouge, Louisiana, while riding in a vehicle driven by her mother. Although Alonso, who was visiting her parents in Louisiana, was then a resident of Alabama, both of the drivers in the accident – Ms. Alonso's mother and the driver of the vehicle that rear-ended the Alonsos – were citizens of Louisiana. In addition, both accident vehicles were insured under policies of automobile insurance that had been sold and issued in Louisiana, a "direct action" state that allows plaintiffs to name insurers as additional defendants in automobile accident lawsuits.

In March 1998, two months after she was involved in the traffic accident in Baton Rouge, Ms. Alonso visited her attorney, Billie Line, a lawyer licensed in Alabama, so that he could represent her in a claim for damages arising out of the accident in Baton Rouge. Ms. Alonso was a return client who Line had represented in several real estate closings and related matters since at least 1996.

Believing that, like Alabama, Louisiana had a two year statute of limitations for personal injury actions, Line failed to file Ms. Alonso's personal injury lawsuit within one year of her accident. He testified in the trial court that his customary practice was to try and settle cases like this one, and if he could not reach an amicable resolution by settlement, he would refer the matter to someone else for handling. He contacted an Alabama-based State Farm insurance adjuster to open a claim, and then did very little else in the way of handling the claim.

As the record and the Louisiana Supreme Court opinion reflect, Ms. Alonso moved from Alabama to Louisiana, in June of 1998, roughly three months after she hired Line to represent her in the Louisiana accident case. At the time of this move, in addition to representing Ms. Alonso in her claim for damages arising out of the automobile accident in Louisiana, Mr. Line continued to represent Ms. Alonso in a commercial matter, an Alabama lease dispute. After Ms. Alonso moved to Louisiana, Mr. Line contacted her on several occasions by telephone, while he was in Alabama, and she was in Louisiana, to discuss issues related to the lease dispute. During the period when Mr. Line was directing telephone calls to Louisiana to discuss the lease dispute, he was still Ms. Alonso's lawyer in her claim for damages arising out of the January 1998 accident in Louisiana. After Ms. Alonso contacted Line by telephone late in 1999 to inquire about the progress of her automobile accident case, Line called Ms. Alonso, while he was in Alabama, and she was in Louisiana, to inform her that he had "blown it," that Louisiana had a one year statute of limitations for tort actions, that he had failed to file a suit in Louisiana, and that her claim for damages from the January 1998 accident was now time barred.

After losing her right to sue for her accident, Ms. Alonso sued Line for legal malpractice. Line, who was served via the Louisiana long arm statute, filed an Exception of Lack of Personal Jurisdiction, arguing that Louisiana lacked personal jurisdiction over him because he did not have sufficient minimum contacts with Louisiana. The trial court denied Line's Exception. The intermediate appellate court reversed the trial court ruling, and, on Ms. Alonso's application, the Louisiana Supreme Court

granted writs of review and reversed the intermediate court ruling. Line now seeks review from this Court.

ARGUMENT

I. This case does not warrant this Court's attention because it presents no compelling reason for a grant of certiorari by this Court.

With all due respect to petitioner's application, and indeed the right of any litigant to seek review of lower court decisions in this Court, this case does not warrant review by the United States Supreme Court. This is an ordinary, garden-variety legal malpractice case involving a lawyer who missed a filing deadline. Granted, the lawyer lived in one state, and his client lived in another, but the lawyer communicated with his client about other legal matters while she lived in that other state and while he continued to represent her in this case. The decision of the Louisiana Supreme Court, interpreting the Louisiana Long Arm Statute, does not have the far-reaching implications petitioner describes, and petitioner's writ application should be denied.

Rule 10 of this Court's rules generally describes the types of rulings by United States Courts of Appeals and state courts of last resort that will give rise to discretionary review of such decisions by this Court. The application filed in this case does not satisfy those requirements. The thrust of petitioner's application is that the May 20, 2003 decision of the Louisiana Supreme Court in this case conflicts with other decisions of this and other federal courts, but, contrary to petitioner's arguments, the Louisiana Supreme Court properly analyzed all relevant and

applicable federal constitutional provisions and authorities when it rendered its decision in this case.

Contrary to relator's assertions, the Louisiana Supreme Court did not extend jurisdiction in this case solely on the basis of the criteria listed in the Louisiana Long Arm Statute over a nonresident without analyzing the federal constitution's due process requirements, and the Louisiana Supreme Court most certainly did not replace the tests set by this Court for measuring the proper exercise of personal jurisdiction. Rather, the Louisiana Supreme Court specifically addressed, and followed, this Court's controlling precedents when it rendered its decision of May 20, 2003. Indeed, contrary to petitioner's assertions, the Louisiana Supreme Court's decision in this case notes that, while the specific "contacts" listed in LSA R.S. 13:3201 might serve as a "valuable list" of contacts sufficient to give rise to personal jurisdiction, the sole inquiry into jurisdiction over a nonresident is an analysis of constitutional due process requirements.

II. The Louisiana Supreme Court did not create a new test for personal jurisdiction, and its decision in this case conflicts with neither the decisions of this Court nor of the federal circuit courts.

In reaching its unanimous decision in this case, the Louisiana Supreme Court analyzed this Court's personal jurisdiction cases going back to *Pennoyer v. Neff*, 95 U.S. 733 (1877). Analyzing *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945), *Hanson v. Denckla*, 357 U.S. 235, 78 S.Ct. 1228, 2 L.Ed. 2d 1283 (1958), *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 105 S.Ct. 2174, 85 L.Ed. 2d 528 (1985), and other authorities,

the Louisiana Supreme Court held in this case that plaintiff met her burden of proving that Line had sufficient minimum contacts with Louisiana, and the exercise of personal jurisdiction over him would not offend traditional notions of fair play and substantial justice.

While the Louisiana Supreme Court's analysis of the Louisiana Long Arm Statute was based, in part, upon specific provisions of its long arm statute, its analysis turned on federal due process considerations. Specifically, the Louisiana Court recognized that by agreeing to represent a client in a case that could only be properly brought in Louisiana,[1] failing to properly limit his representation to trying to negotiate a settlement, failing to properly research and investigate the case, and failing to timely file the case, Line contracted to supply services in Louisiana

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[1] Petitioner's application argues at length about the Louisiana Supreme Court imputing certain knowledge to Line and how this conflicts with controlling precedent, but the fact that Line is a lawyer (and not an internet sales person, or businessman conducting contract negotiations that might give rise to multistate activities and jurisdiction) should not be ignored. Indeed, while the Louisiana Supreme Court did not hold Line to any higher standard than it would any other person, it is important for this Court to understand that the underlying subject matter of Line's representation of Ms. Alonso was a routine automobile accident case, indeed a "rear end collision." The accident happened in Louisiana. All drivers were from Louisiana. All insurance policies had been issued in Louisiana. It is essentially undisputed that any lawsuit arising out of this accident would have to have been brought in Louisiana. Ms. Alonso moved to Louisiana while Line was representing her in other matters. He knew this because he called her in Louisiana about those matters. Indeed, he eventually called her in Louisiana to inform her that he "blew it" by failing to file her case on time. It is disingenuous, at best, for Line to argue that he could not anticipate that his actions would have any effect in Louisiana.

and committed an omission that caused damage in Louisiana. The Louisiana Supreme Court held that, in so doing, Line satisfied the minimum contacts prong of the due process analysis. In addition, the Louisiana Supreme Court held that Line could not show that the exercise of personal jurisdiction over him would be so unreasonable in light of traditional notions of fair play and substantial justice so as to overcome the presumption of reasonableness. On the latter point, the Louisiana Court found that it was not unfair for Line to travel to Louisiana for the trial of this case because, among other things: he had previously traveled to Louisiana to attend the hearing on the Exception of Lack of Personal Jurisdiction; Louisiana has a significant interest in adjudicating a case of *admitted* legal malpractice affecting a citizen of Louisiana arising out of the failure to file a lawsuit that could only have been filed in Louisiana; the underlying accident giving rise to claim in the first place had taken place in Louisiana; and, lastly, Line offered no procedural or substantive policies suggesting why the policies of the State of Alabama, the only other state whose interest could be affected by Louisiana's exercise of jurisdiction in this case, would conflict with Louisiana's decision to exercise jurisdiction.

The decision of the Louisiana Supreme Court in this case is correct. Petitioner's arguments seem to suggest that this Court should invalidate long arm statutes all across this country, thereby depriving the citizens of different states from ever being able to hail wrongdoers from other states into the states where they committed tortious acts to answer for those acts.

III. This case does not give rise to the far-reaching constitutional implications petitioner describes.

The final section of petitioner's application argues mightily that this Court should review this case because of its importance to commercial and other transactions in this increasingly interconnected society. Again, with all due respect to petitioner's application, this case does not present factual or legal issues touching upon the litany of hypothetical problems petitioner sets forth regarding email and cellular phone communications. For over two hundred years, this Court has carefully decided its cases, one case at a time. While many decisions of this Court, rendered long before the "horseless carriage," air travel, email, or cellular communication, are as applicable and sound today as the day they were originally written, those decisions were written to provide guidance and analysis to lower courts from the facts and law applicable to then-existing cases and controversies. This case does not involve email communication, does not involve cellular communication, and, contrary to petitioner's assertions, the decision of the Louisiana Supreme Court does not "destroy any meaningful concept of state citizenship." *See* Petitioner's Application, p. 21.

Indeed, this is an ordinary, garden-variety legal malpractice case involving a lawyer who missed a filing deadline. While petitioner tries mightily to "make a federal case" of it, the analysis of the Louisiana Supreme Court is constitutionally sound, and its decision is legally correct.

CONCLUSION

The Louisiana Supreme Court properly analyzed controlling precedents from this Court. This case does not warrant review by this Court because the decision of the Louisiana Supreme Court is correct, and because this case does not have the far-reaching implications predicted by petitioner's application. For all these reasons, respondent, Pamela Alonso, respectfully prays that petitioner's application be denied.

Respectfully submitted,

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